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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

13 Cr. 616 VB

5 RIZVE AHMED,

6 Defendant.

7 -----x

8 October 17, 2014

2:15 p.m.

9 White Plains, N.Y.

10 Before:

11 HON. VINCENT L. BRICCETTI,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

United States Attorney for the

15 Southern District of New York

EMILY RAE WOODS

16 BENJAMIN ALLEE

Assistant United States Attorneys

17 BRAD HENRY

18 Attorney for Defendant

19
20 KERWIN JOHN, DOJ

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1 THE COURTROOM DEPUTY: United States v. Rizve Ahmed.
2 Will counsel please state their appearances.

3 MS WOODS: Rae Woods for the government. With me is
4 Benjamin Allee and Kerwin John.

5 MR. HENRY: Brad Henry for Mr. Ahmed.

6 THE COURT: Good afternoon, everybody. Have a seat.
7 Mr. Henry, does your client have an application?

8 MR. HENRY: He does, your Honor. We would ask the
9 Court at this time for Mr. Ahmed to be able to change his plea
10 from not guilty to guilty.

11 THE COURT: And I understand that's with respect to
12 Counts 3 and 4 of the indictment?

13 MR. HENRY: That is correct, your Honor.

14 THE COURT: In full satisfaction of the indictment?

15 MR. HENRY: Correct, your Honor.

16 THE COURT: All right. Mr. Ahmed, I've been advised
17 that you wish to plead guilty to Counts 3 and 4 of indictment
18 13 Cr. 616. Is that correct?

19 THE DEFENDANT: Yes.

20 THE COURT: Before I accept your guilty plea I'm going
21 to ask you a number of questions. It's very important that you
22 answer these questions honestly and completely and that's
23 because the purpose of my questions is to make sure that you
24 understand your rights and that you're pleading guilty of your
25 own free will. I also want to make sure that you are pleading

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1 guilty because you are guilty and not for some other reason and
2 that you fully understand the consequences of your plea.

3 Therefore, it's important that you understand every question
4 before you answer it. So if you don't understand a question
5 that I ask you, don't answer it, tell me you don't understand
6 it and I'll either rephrase it or I'll give you an opportunity
7 to discuss the matter with your attorney. You can ask him
8 anything you want for as long as you want. Will you do that,
9 please?

10 THE DEFENDANT: Yes, I will.

11 THE COURT: Ms Hilbert, would you please swear the
12 defendant.

13 (Defendant placed under oath)

14 BY THE COURT:

15 Q. Mr. Ahmed, you're now under oath. What that means is that
16 if you answer any of my questions falsely your answers could
17 later be used against you in a prosecution for perjury or for
18 making a false statement. Do you understand that?

19 A. Yes.

20 Q. What is your full name?

21 A. Rizve Ahmed.

22 Q. How old are you, sir?

23 A. 35.

24 Q. How far did you go in school?

25 A. I got a bachelor in marketing and business.

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1 Q. Where was that?

2 A. Western Connecticut State University.

3 Q. That's in Danbury?

4 A. In Danbury.

5 Q. Are you now or have you recently been under the care of a
6 doctor or psychiatrist?

7 A. No.

8 Q. Have you ever been treated or hospitalized for any mental
9 illness?

10 A. No.

11 Q. Have you ever been treated or hospitalized for any
12 addiction to drugs or alcohol?

13 A. No.

14 Q. In the last 24 hours have you taken any drugs or any
15 medicine or pills, or consumed any alcohol.

16 A. No.

17 Q. Is your mind clear today?

18 A. Yes.

19 Q. Do you understand what's happening here today?

20 A. Yes.

21 Q. Have you had enough time to and opportunity to discuss your
22 case with your attorney?

23 A. Yes.

24 Q. Have you discussed with him the charges against you
25 including any possible defenses you might have?

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1 A. Yes.

2 Q. Have you discussed with him the consequences of entering a
3 plea of guilty?

4 A. Yes.

5 Q. Are you satisfied with your attorney's representation of
6 you?

7 A. Yes.

8 THE COURT: Does either counsel have any doubt as to
9 the defendant's competence to plead guilty at this time?

10 Ms Woods?

11 MS WOODS: No, your Honor.

12 THE COURT: Mr. Henry?

13 MR. SER: No, your Honor.

14 THE COURT: Based on the defendant's responses to my
15 questions and my observations of his demeanor, I find that he
16 is fully competent to enter an informed guilty plea at this
17 time.

18 Q. Mr. Ahmed I'm going to explain certain constitutional
19 rights that you have and these are rights that you would be
20 giving up if you enter a guilty plea. So again, stop me if
21 there's anything you don't understand and either I or your
22 attorney will explain the matter more fully.

23 First, under the Constitution and laws of the United
24 States you have a right to plead not guilty to the charges
25 contained in this indictment. Do you understand that?

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1 A. Yes.

2 Q. If you did plead not guilty or persisted in the previous
3 not guilty plea that you entered you would be entitled to a
4 speedy and public trial by a jury on the charges contained in
5 the indictment. Do you understand that?

6 A. Yes.

7 Q. At that trial you would be presumed to be innocent and the
8 government would be required to prove you guilty by competent
9 evidence beyond a reasonable doubt before you could be found
10 guilty. You would not have to prove that you were innocent.
11 Do you understand that?

12 A. Yes.

13 Q. If there were a jury trial you could not be convicted
14 unless a jury of twelve people unanimously agreed that you were
15 guilty beyond a reasonable doubt. Do you understand that?

16 A. Yes.

17 Q. At that trial and at every other stage of your case you
18 would have the right to be represented by an attorney. If you
19 could not afford an attorney, the Court would appoint one to
20 represent you at no cost to you. Do you understand that?

21 A. Yes.

22 Q. Mr. Henry is retained, am I right?

23 A. Yes.

24 Q. You retained him. I want to make sure you know that if you
25 could not afford an attorney at any point, the Court would

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1 appoint an attorney to represent you at no cost to you, even
2 though Mr. Henry has been retained by you. Do you understand
3 that?

4 A. Yes.

5 Q. During a trial the witnesses for the government would have
6 to come to court and testify in your presence where you could
7 see them and hear them, your lawyer could cross-examine these
8 witnesses and object to evidence offered by the government.
9 Also, your lawyer could offer evidence on your behalf and you
10 would be able to use subpoenas to compel witnesses to come to
11 court and testify in your defense even if they did not want to
12 come. Do you understand all of that?

13 A. Yes.

14 Q. At a trial you would have the right to testify if you chose
15 to do so. You would also have the right not to testify. If
16 you chose not to testify, that could not be used against you in
17 any way. No inference or suggestion of guilty could be drawn
18 from the fact that you did not testify. Do you understand
19 that?

20 A. Yes.

21 Q. If you were convicted at a trial you would have the right
22 to appeal that verdict to a higher court. Do you understand
23 that?

24 A. Yes.

25 Q. Even now you have the right to change your mind. In other

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1 words, you can plead not guilty or persist in your previously
2 entered not guilty plea and go to trial. Do you understand
3 that?

4 A. Yes.

5 Q. But if you do plead guilty and I accept your plea you will
6 be giving up your right to a trial and all of the other trial
7 rights that go with it that I've just described. If you plead
8 guilty there will be no trial and I will enter a judgment of
9 guilty and sentence you on the basis of your guilty plea after
10 considering the presentence report prepared by the Probation
11 Department and after considering any submissions I get from
12 you, your attorney and the government. Do you understand that?

13 A. Yes.

14 Q. Finally, if you do plead guilty you will also be giving up
15 your right not to incriminate yourself and I will ask you
16 questions about what you did in order to satisfy myself that
17 you are in fact guilty as charged. Do you understand that?

18 A. Yes.

19 Q. Mr. Ahmed, have you received a copy of the indictment in
20 this case, docket number 13 Cr. 616?

21 A. Yes.

22 Q. Have you read the indictment?

23 A. Yes.

24 Q. Have you discussed it with your attorney?

25 A. Yes.

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1 Q. Do you understand that you're charged with the following
2 offenses in Counts 3 and 4? I'm just going to summarize them
3 I'm not going to repeat everything that's in the indictment. I
4 just want to make sure you understand what you're charged with.

5 In Count 3 you're charged with offering bribes to a
6 public official. And specifically, it's alleged that you gave
7 and offered cash payments to Robert Lustyik and Johannes Thaler
8 with the intent to induce Lustyik to disclose confidential
9 government information to which Lustyik had access by virtue of
10 his position as a special agent with the Federal Bureau of
11 Investigation. Do you understand that that's the gist of what
12 you're charged with in Count 3?

13 A. Yes.

14 Q. And then in Count 4 you're charged with conspiring to
15 defraud the citizens of the United States, basically that you
16 agreed with Mr. Lustyik and Mr. Thaler to devise and intended
17 to device a scheme and artifice to defraud and obtain money and
18 property and to deprive the citizens of the United States of
19 their right to the honest services of Mr. Lustyik. Do you
20 understand that?

21 A. Yes.

22 Q. The so-called honest services conspiracy. Do you
23 understand that?

24 A. Yes.

25 THE COURT: Ms Woods, could you tell me the essential

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1 elements of the offense. Do them one at a time, first the
2 offense charged in Count 3 and then Count 4.

3 MS WOODS: For Count 3 the essential elements include
4 that the defendant directly or indirectly corruptly offered,
5 gave, or promised to give a thing of value to a public official
6 and that he did so intending to influence the public official
7 in the performance of an official act.

8 THE COURT: Okay. Count 4.

9 MS WOODS: For Count 4 the elements require the
10 government to prove that two or more people agreed to commit
11 honest services wire fraud, that the defendant willfully joined
12 in that agreement; and that one of the conspirators committed
13 an overt act during the time period of the conspiracy in an
14 effort to further the conspiracy.

15 THE COURT: Thank you, Ms Woods.

16 Q. Mr. Ahmed, do you understand that if you did not plead
17 guilty to Count 3, the government would have to prove each and
18 every element of that charge beyond a reasonable doubt at
19 trial?

20 A. Yes.

21 Q. Do you understand that if you did not plead guilty to Count
22 4 the government would have to prove each and every element of
23 that charge beyond a reasonable doubt at trial?

24 A. Yes.

25 Q. Do you understand that the maximum possible penalties for

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1 these offenses are as follows? Starting with Count 3 which is
2 the bribery count. Count 3, the maximum term of imprisonment
3 is 15 years, the maximum term of supervised release is three
4 years, the maximum fine is the greatest of \$250,000 or twice
5 the gross pecuniary gain derived from the offense or twice the
6 gross pecuniary loss to persons other than you resulting from
7 the offense, and there's also a \$100 mandatory special
8 assessment. That last item, the mandatory special assessment,
9 is mandatory. I have no discretion in that matter. I have to
10 impose that. Do you understand that those are the maximum
11 possible punishments for the offense charged in Count 3?

12 A. Yes.

13 Q. Now, as to Count 4 which is the conspiracy charge, the
14 maximum possible punishments are as follows. A maximum term of
15 imprisonment of 20 years; a maximum term of supervised release
16 of three years; a maximum fine of the greatest of \$250,000 or
17 twice the gross pecuniary gain derived from the offense or
18 twice the gross pecuniary loss to persons other than you
19 resulting from the offense; and there's also a hundred dollar
20 mandatory special assessment. That's on Count 4. Do you
21 understand all that?

22 A. Yes.

23 Q. Let me just tell you something about supervised release
24 which I just mentioned. Supervised release means that if I
25 sentence you to prison, you will be subject to monitoring after

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1 your release from prison and there are rules and conditions of
2 supervised release that you'd have to follow while you were on
3 supervised release, and if you violated those rules you could
4 be returned to prison without a jury trial, serve additional
5 time even beyond your original sentence. If that would happen
6 you would be given no credit for time served in prison on your
7 original sentence and no credit for any time spent on
8 supervised release. Do you understand that?

9 A. Yes.

10 Q. You should also understand that parole has been abolished
11 in the federal system and that if you're sentenced to prison
12 you will not be released early on parole. Do you understand
13 that?

14 A. Yes.

15 Q. You are a U.S. citizen, am I correct?

16 A. Yes.

17 Q. Now, as part of your sentence I could also order
18 restitution to any person injured as a direct result of your
19 criminal conduct. Do you understand that?

20 A. Yes.

21 THE COURT: Ms Woods, is the government aware of any
22 basis for restitution in this case?

23 MS WOODS: No, your Honor.

24 THE COURT: Thank you.

25 Q. Mr. Ahmed, I could do it in theory, the law permits me to

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1 order restitution, but the government has advised me that they
2 are not aware of any basis for restitution.

3 Now, there are no mandatory minimum punishments for
4 these two offenses with the exception of the mandatory special
5 assessment. It's a hundred dollars on each count. So the
6 mandatory minimum would be a hundred dollars special assessment
7 on Count 3, a hundred dollars on Count 4 for a total of two
8 hundred dollars, do you understand that?

9 A. Yes.

10 Q. Because you're pleading guilty to two different counts in
11 this indictment, I will be imposing a separate sentence on each
12 count. Do you understand that?

13 A. Yes.

14 Q. And do you further understand that I may order you to serve
15 sentences either concurrently, meaning that you would serve
16 both sentences at the same time, or consecutively, meaning that
17 you would serve the sentences one after the other?

18 A. Yes.

19 Q. So do you understand that if I impose consecutive
20 sentences, meaning one after the other, your sentence could be
21 a maximum total of 35 years in prison?

22 A. Yes.

23 Q. Do you further understand that if I accept your guilty plea
24 and adjudge you guilty, that adjudication may deprive you of
25 valuable civil rights such as the right to vote, the right to

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1 hold public office, the right to serve on a jury, the right to
2 possess any kind of firearm, and the right to hold certain
3 professional licenses?

4 A. Yes.

5 Q. Now, have you talked with your attorney about how the
6 Federal Sentencing Guidelines apply to your case?

7 A. Yes.

8 Q. In imposing sentence I'm required to consider the
9 guidelines, which are a set of rules and recommendations for
10 determining an appropriate sentence. I'm required to calculate
11 the applicable guideline range and consider that range. I also
12 have to determine whether there should be any upward or
13 downward departure from the range. And while I must pay close
14 attention to the guidelines in returning a sentence, in the end
15 I'm required to impose a sentence that I believe best satisfies
16 the purposes of the criminal law based on the sentencing
17 factors set forth in Section 3553(a) of Title 18 of the United
18 States Code, even if that sentence is higher or lower than what
19 the guidelines recommend. Do you understand that?

20 A. Yes.

21 Q. I won't be able to determine how the guidelines apply to
22 your case until after a presentence report has been prepared by
23 the Probation Office and you and the government have had a
24 chance to comment on or challenge anything in the report. Do
25 you understand that?

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1 A. Yes.

2 Q. Do you understand that if your attorney or anyone else has
3 attempted to predict what your sentence will be, that
4 prediction could be wrong?

5 A. Yes.

6 Q. I'm telling you this because you need to understand that no
7 one can be sure now what your sentence will be. It's my job to
8 decide what your sentence will be and I'm not going to do that
9 now. I'm going to wait until after the presentence report is
10 completed and I've ruled on any challenges to the report,
11 calculated the sentencing range, determined whether there are
12 grounds to depart from the range and considered all of the
13 factors set forth in Section 3553(a) so nobody, not even I, can
14 predict what the sentence will be in your case. Do you
15 understand all of that?

16 A. Yes.

17 Q. Do you also understand that even if your sentence is
18 different from what your attorney or anyone else told you it
19 might be, or if it's different from what you expect it to be,
20 or from what may be contained in the plea agreement with the
21 government, that you have with the government, once you've
22 pleaded guilty you will not be allowed to withdraw your plea.
23 Do you understand that?

24 A. Yes.

25 Q. Has anyone threatened you or coerced you in any way or

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1 tried to force you to plead guilty?

2 A. No.

3 Q. Has anyone other than the prosecution promised you or
4 offered you anything in order to get you to plead guilty?

5 A. No.

6 Q. I've been given a letter dated October 16, 2014 from the
7 prosecutor to your attorney which is a plea agreement between
8 you and the government. I'm going to have it marked as Court's
9 Exhibit 1 and I'm going to ask my courtroom deputy to verify
10 that your signature appears on page 6 of that agreement,
11 Court's Exhibit 1.

12 THE COURTROOM DEPUTY: Mr. Ahmed, is that your
13 original signature signed today October 17, 2014?

14 THE DEFENDANT: Yes.

15 Q. Mr. Ahmed, did you read this agreement prior to signing it?

16 A. Yes.

17 Q. Did you discuss it with your attorney prior to signing it?

18 A. Yes.

19 Q. Did you discuss every aspect prior to signing it?

20 A. Yes.

21 Q. And at the time you signed the agreement did you understand
22 it?

23 A. Yes.

24 Q. Is this plea agreement the entire agreement between you and
25 the government?

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1 A. Yes.

2 Q. Is there any agreement, promise or understanding between
3 you and the government that's not set forth in this agreement?

4 A. No.

5 Q. Has anyone threatened you or coerced you or forced you to
6 enter into the plea agreement?

7 A. No.

8 Q. Other than what's contained in the plea agreement has
9 anyone promised you anything or offered you any inducement to
10 plead guilty or to enter into the plea agreement?

11 A. No.

12 Q. Has anyone made a promise to you as to what your sentence
13 will be?

14 A. No.

15 Q. Now, it appears that you and the government have stipulated
16 to, which simply means agreed to, the appropriate calculation
17 of your sentencing range under the guidelines, although I see
18 that there's also a portion of the agreement that remains in
19 dispute, in other words it's an agreement to disagree about one
20 particular guidelines adjustment. But the agreement to
21 disagree is part of the stipulation. Are you aware of that
22 stipulation?

23 A. Yes.

24 Q. According to the stipulation, the agreed-upon sentencing
25 range is anywhere from, depending on how I come out on that one

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1 disputed item, anywhere between 70 months and 121 months
2 imprisonment.

3 A. Yes.

4 Q. Do you understand that? And do you understand that the
5 guidelines stipulation in the plea agreement is binding on you
6 and it's binding on the government but it's not binding on me?

7 A. Yes.

8 Q. Do you understand that regardless of what you and the
9 government agree to, I'm going to make my own determination of
10 your guideline range?

11 A. Yes.

12 Q. Do you understand that under certain circumstances, both
13 you and the government have the right to appeal any sentence
14 that I might impose subject to the terms of the plea agreement?

15 A. Yes.

16 Q. And I see that on page 4 of the agreement, going over to
17 page 5, there is what we refer to as an appeal waiver provision
18 and I want to make sure that you understand that. Do you
19 understand that under the plea agreement you're giving up your
20 right to appeal or otherwise challenge your sentence so long as
21 I sentence you to 121 months imprisonment or less?

22 A. Yes.

23 Q. Mr. Ahmed, have you understood everything that's happened
24 here today so far?

25 A. Yes.

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1 Q. Now that you've been advised of the charges against you and
2 the possible penalties that you face and the rights that you're
3 giving up, is it still your wish to plead guilty to Counts 33
4 and 4 of the indictment?

5 A. Yes.

6 THE COURT: Would the government please summarize what
7 it would expect to prove if this case went to trial.

8 MS WOODS: If this case were to go to trial, the
9 government would prove beyond a reasonable doubt that from
10 September 2011 through March 2012, the defendant, Rizve Ahmed,
11 paid cash bribes and promised to pay additional cash bribes to
12 co-defendant former FBI Special Agent Robert Lustyik and
13 Mr. Johannes Thaler, and that he paid those bribes in return
14 for Mr. Lustyik's disclosing internal confidential law
15 enforcement information to which Mr. Lustyik had access by
16 virtue of his position with the FBI. The government's
17 evidence, which would include the defendant's own admissions,
18 testimony from witnesses, as well as text and email
19 communications between Mr. Ahmed and his co-conspirators, would
20 establish that Mr. Ahmed pursued an arrangement whereby he
21 would pay a \$40,000 retainer fee and would also pay regular
22 monthly payments of \$30,000 to Special Agent Lustyik through
23 Mr. Thaler in exchange for Special Agent Lustyik's official
24 action in providing confidential law enforcement information to
25 Mr. Ahmed, and for Mr. Lustyik's official assistance in

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1 dismissing charges against a political ally of Mr. Ahmed. The
2 government's evidence would prove that Mr. Ahmed, who is a
3 native of Bangladesh, was involved in Bangladesh politics and
4 was seeking the information so that he could kidnap and cause
5 reputational and physical harm to the son of the Bangladesh
6 prime minister. The government's evidence would also prove
7 that from September 2011 through March 2012, Mr. Ahmed
8 conspired with co-defendant Special Agent letter Lustyik and
9 Mr. Thaler to commit honest services wire fraud in violation of
10 18 U.S.C. 1343. The government's evidence, which would include
11 the defendant's own statements, witness testimony and e-mail
12 and text message communications between Mr. Ahmed and his
13 co-defendants, would establish that they agreed together to
14 deprive the American citizens and the FBI of the rights to the
15 honest services of Special Agent Lustyik for the purpose of
16 executing the bribery scheme and that in carrying out that
17 scheme the defendants transmitted or caused to be transmitted
18 by means of interstate wires various e-mails and text messages.

19 THE COURT: Thank you, Ms Woods.

20 Q. Mr. Ahmed, did you hear what the prosecutor just said?

21 A. Yes.

22 Q. Is it substantially accurate?

23 A. Yes.

24 Q. What I need you to do now is tell me in your own words what
25 you did that makes you believe you are guilty of the crimes to

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1 which you are pleading guilty. Are you going to be reading
2 from a written statement?

3 A. Yes.

4 Q. That's fine. I just want to verify that this is something
5 that you prepared in conjunction and with the assistance of
6 your attorney.

7 A. Yes.

8 Q. All right. You can go ahead and read it.

9 A. Between in or about September 2011 through in or about
10 March 2012 I directly offered money to Johannes Thaler and
11 Robert Lustyik, knowing that Lustyik was an FBI agent, at 26
12 Federal Plaza in the Southern District of New York with the
13 intent to induce Lustyik to do an act in violation of his
14 lawful duty. I knew what I was doing was illegal.

15 Between in or about 2011 through in or about March
16 2012, I agreed with others to defraud the United States by
17 depriving the United States of the honest services of Robert
18 Lustyik, through transmitting through the phone, text messages
19 and e-mail, offering money with the intent to induce Lustyik to
20 do an act in violation of his lawful authority. I knew what I
21 was doing was illegal. I specifically intended to deprive the
22 United States of Robert Lustyik's honest services. I knew the
23 object of the conspiracy and I voluntarily participated. And I
24 knowingly and voluntarily participated.

25 THE COURT: You mentioned e-mails and text messages.

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1 Mr. Henry, do you stipulate or otherwise concede that those
2 were interstate wire communications?

3 MR. HENRY: Yes, your Honor.

4 Q. Mr. Ahmed, did you understand that Mr. Lustyik worked as an
5 agent of the FBI in New York City, in Westchester County?

6 A. Yes.

7 Q. You mentioned 26 Federal Plaza. Is that in Manhattan?

8 A. Yes.

9 Q. Did you know at the time that you did these things that
10 what you were doing was wrong and against the law?

11 A. Yes.

12 Q. Did anyone threaten you or coerce you or force you to do
13 these things?

14 A. No.

15 THE COURT: Ms Woods, do you believe there is a
16 sufficient factual predicate for a guilty plea?

17 MS WOODS: Yes, your Honor.

18 THE COURT: Do you agree with that, Mr. Henry?

19 MR. SER: Yes, your Honor.

20 THE COURT: Are there any additional questions either
21 of you would like me to ask the defendant? Ms Woods?

22 MS WOODS: No, your Honor.

23 THE COURT: Mr. Henry?

24 MR. SER: No thank you, your Honor.

25 THE COURT: Mr. Henry, do you know of any valid

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1 defense that would prevail at trial or any reason why your
2 client should not be permitted to plead guilty?

3 MR. SER: I do not.

4 Q. How do you now plead to the charge in Count 1 of the
5 indictment, the bribery charge, Count 3, I apologize, I
6 misspoke --

7 A. Guilty.

8 Q. Hold on -- which is the bribery charge. Guilty or not
9 guilty?

10 A. Guilty.

11 Q. How do you now plead to the charge in Count 4 of the
12 indictment which is the conspiracy charge, guilty or not
13 guilty?

14 A. Guilty.

15 Q. Are you in fact guilty of the charge in Count 3?

16 A. Yes.

17 Q. Are you in fact guilty of the charge in Count 4?

18 A. Yes.

19 Q. Are you pleading guilty voluntarily and of your own free
20 will as to Count 3?

21 A. Yes.

22 Q. Are you pleading guilty voluntarily and of your own free
23 will as to Count 4?

24 A. Yes.

25 THE COURT: On the basis of the defendant's responses

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1 to my questions and my observations of his demeanor I'm
2 satisfied that he understands his rights and is waiving them
3 knowingly and voluntarily with an understanding of the
4 consequences of his guilty plea including the potential
5 sentences that may be imposed, that he is voluntarily pleading
6 guilty, that he has admitted that he is guilty as charged in
7 Counts 3 and 4 of the indictment and that his plea is entered
8 knowingly and voluntarily and is supported by an independent
9 factual basis as to each and every element of the crimes
10 charged. Accordingly, I accept the defendant's guilty plea and
11 adjudge him guilty of the charges in Counts 3 and 4. I direct
12 that a presentence investigation be conducted by the Probation
13 Department and that a presentence report be prepared.

14 You're going to be interviewed by a probation officer
15 and you can and you should definitely have your attorney with
16 you during that interview. Now, I want you to make sure that
17 anything that you do say to the probation officer is truthful
18 and accurate. The reason for that is that the presentence
19 report is very important to me in deciding what sentence to
20 impose. And the report is going to include a description of
21 anything that you might have said to the probation officer. So
22 if you decide to speak to the probation officer, just make sure
23 that what you say is truthful and accurate.

24 A. Yes.

25 Q. It's going to be important to me, okay? And you and your

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1 attorney will have an opportunity to examine the report and
2 challenge and comment on it before I sentence you, so it's
3 important that you read it, read the presentence report
4 carefully and discuss it with your attorney before your
5 sentencing date. If there are any mistakes in the report or
6 anything that you object to, please point them out to your
7 attorney so that he can bring them to my attention before I
8 impose sentence. Will you do that?

9 A. Yes.

10 Q. And you and your attorney will also both have the right to
11 speak on your behalf before sentencing.

12 THE COURT: We will set a date approximately 90 days
13 out. How about January 23, 2015 at two p.m. Does that work?
14 Let's make it 2:30 p.m. Does that work?

15 MR. SER: Yes, your Honor.

16 MS WOODS: Yes, your Honor.

17 THE COURT: January 23rd at 2:30 p.m. That's the
18 sentencing date. Any written submissions by the defendant will
19 be due no later than one week before sentencing and any
20 response by the government will be due three days before
21 sentencing.

22 Now, the defendant has been released on bail with a
23 number of conditions. Does the government have any objection
24 to the present bail status being continued until the date of
25 sentencing?

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1 MS WOODS: Yes, your Honor. The government would
2 request that the defendant be held pursuant to 18 U.S.C. 1343.

3 THE COURT: You mean 3143 I assume.

4 MS WOODS: 3143, my mistake, your Honor.

5 THE COURT: What specifically about that statute?

6 MS WOODS: Under that provision, the Court shall order
7 that a person who has been found guilty of an offense be
8 detained unless the Court finds by clear and convincing
9 evidence that the person is not likely to flee or pose a danger
10 to the safety of any other person or the community if released.

11 THE COURT: All right. Is it your view that the Court
12 cannot find by clear and convincing evidence that the defendant
13 is not likely to flee or pose a danger to the safety of another
14 person or the community?

15 MS WOODS: Yes, your Honor.

16 THE COURT: Why is that?

17 MS WOODS: The government views Mr. Ahmed as a
18 substantial flight risk. Now that he has pled guilty for the
19 crime with which he was charged, we ask that he be detained
20 pending sentencing.

21 THE COURT: Well he's a U.S. citizen, is that correct?

22 MS WOODS: Yes. Although he was born in Bangladesh
23 and lived there for 14 years. It's relevant because --

24 THE COURT: It's not relevant, let me stop you right
25 there. He's got connections in a foreign country? So do I.

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1 If I get arrested are you going to seek my detention? Family
2 connections in a foreign country? That's not relevant. He is
3 a U.S. citizen, correct?

4 MS WOODS: Yes, your Honor.

5 THE COURT: What else? Why do you think he's a
6 substantial flight risk other than the fact that he was born in
7 a foreign country and has connections to that country?

8 MS WOODS: The nature and circumstances of the offense
9 here. The crimes by their very nature involved Mr. Ahmed
10 corrupting a public official to obtain confidential law
11 enforcement information to which he should not have been privy.

12 THE COURT: Let me stop you right there. As you know,
13 Mr. Ahmed's co-defendant, Mr. Thaler, who was charged with
14 essentially the same thing pleaded guilty earlier today and you
15 did not take the position, in other words, the same offense
16 that Mr. Ahmed has just been convicted of, but you didn't take
17 the position there that that meant that he was a substantial
18 flight risk. In fact you consented to continuing Mr. Thaler on
19 bail.

20 MS WOODS: That's correct.

21 THE COURT: What's the difference between Ahmed and
22 Thaler?

23 MS WOODS: When your Honor looks at the totality of
24 the circumstances, Mr. Ahmed is differently situated. The
25 crimes to which he has just plead guilty involve a total

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1 maximum sentence of 35 years. The Sentencing Guidelines range
2 in the plea agreement ranges from 70 to 121 months which is a
3 substantial sentence.

4 THE COURT: About the same as the guideline range for
5 Mr. Thaler. Slightly higher.

6 MS WOODS: It is higher, your Honor.

7 THE COURT: Slightly higher.

8 MS WOODS: In addition, there is evidence, and it's
9 the government's view that the Court should take into account
10 whether or not an individual has extended family in another
11 country and access to funds abroad and a place where he could
12 go and make a save haven if he should decide to leave the
13 country. We would request your Honor consider these factors in
14 light of the fact that the defendant was charged in this case
15 one day prior to him boarding a flight to London, as you will
16 recall. And he has admitted that he regularly travels to both
17 Bangladesh and to England.

18 The investigation in this case reveals that the
19 defendant has a high level ally in London who was financing
20 this bribery scheme and with whom Mr. Ahmed communicated in an
21 effort to assist that individual in avoiding law enforcement
22 detection while traveling abroad and specifically in avoiding
23 detection because he knew that individual had an Interpol
24 warrant out for his arrest. There is evidence that Mr. Ahmed
25 has extended family in Bangladesh as well as political allies

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1 who send him money and who support him from afar.

2 THE COURT: Are you saying that he would have a safe
3 haven in Bangladesh because he has connections there and family
4 and friends and access to funds?

5 MS WOODS: It certainly enhances his flight risk, your
6 Honor.

7 THE COURT: My specific question is, would Bangladesh
8 be a safe haven?

9 MS WOODS: Not under the law, your Honor.

10 THE COURT: How about under the facts? As I
11 understand the facts here, he was seeking to obtain information
12 to use against the son of the prime minister of Bangladesh, the
13 prime minister being a member of a political party which was
14 adverse to the political party that Mr. Ahmed supported. Is
15 that essentially what this case is about?

16 MS WOODS: Yes, your Honor.

17 THE COURT: And that party, meaning the other
18 political party, not Ahmed's, is still in power in Bangladesh?

19 MS WOODS: They are currently in power. And I'm no
20 expert on Bangladesh politics but from what I do understand the
21 parties are pretty evenly split in the country.

22 THE COURT: This would be a country run by the
23 opposing political party who would now know that Mr. Ahmed has
24 been convicted of bribing an FBI agent to obtain information to
25 use against the party in power, right? It sounds to me like

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1 the opposite of a safe haven, that the last place in the world
2 he'd want to go is Bangladesh, which by the way he's not a
3 citizen of Bangladesh. That strikes me as nonsense that that
4 would be a safe haven. Is there any other safe haven that you
5 would want to point out?

6 MS WOODS: No. But he travels frequently to London,
7 and he is allied to the former prime minister's son who based
8 on the government's understanding is currently residing in
9 London.

10 THE COURT: Is that the person who there's an Interpol
11 warrant for?

12 MS WOODS: Yes, your Honor.

13 THE COURT: You haven't given me any of that. I mean
14 you said that, I appreciate what you're doing, you're making a
15 proffer. I don't recall that being proffered the last time we
16 had a bail discussion. But putting that aside, that was awhile
17 back, so I've forgotten a lot more than I remember, but you
18 certainly haven't given me any concrete evidence of the fact
19 (a) that there was a warrant for this person and that (b)
20 Mr. Ahmed, I think you said, took steps to help that person
21 avoid arrest.

22 MS WOODS: Yes, your Honor.

23 THE COURT: If that's true, I'd be curious to know
24 about it beyond just your proffer.

25 MS WOODS: That's based on text messages that were

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1 recovered from Mr. Ahmed's phone as well as Mr. Lustyik's and
2 Mr. Thaler's phones in which they communicated together because
3 Mr. Ahmed was attempting to assist the former prime minister's
4 son, who is name is Tareq Rahman, he was attempting to assist
5 him in attempting to avoid detection while traveling
6 internationally. And Mr. Lustyik informed Mr. Ahmed indirectly
7 through Mr. Thaler via text message that there was an Interpol
8 warrant out for Mr. Rahman.

9 THE COURT: Indirectly through whom?

10 MS WOODS: Mr. Thaler.

11 THE COURT: Mr. Thaler. Speak clearly, because there's
12 some confusion, obviously, in the various cases here.

13 MS WOODS: Additionally, there are text messages --

14 THE COURT: Let me stop you right there. Are those
15 text messages that you've just referred to, are they referenced
16 or specifically alleged in the indictment?

17 MS WOODS: They are not in the indictment. No, your
18 Honor.

19 THE COURT: I'm sorry, I didn't mean to interrupt you.
20 I did mean to interrupt you. I want you to have an opportunity
21 to finish.

22 MS WOODS: The indictment does refer to an objective
23 of the bribery conspiracy apart from Mr. Ahmed's attempt to
24 gather information on Sajeeb Joy, the son of the current prime
25 minister, the indictment also refers to an alternative

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1 objective, which was to gain Mr. Lustyik's assistance in having
2 the charges or potential charges against his political ally,
3 that is Tareq Rahman, dismissed.

4 THE COURT: Mr. Lustyik is no longer an agent so
5 that's unlikely to happen at this point.

6 MS WOODS: That's correct, your Honor. But it is
7 evidence that there is a relationship between Mr. Ahmed and
8 this high profile Bangladeshi politician who is now in London,
9 England where Mr. Ahmed travels quite frequently.

10 THE COURT: Hold on one second. The guy in London, is
11 he in custody? I mean he's the one that has the warrant.

12 MS WOODS: Not to the government's knowledge, your
13 Honor.

14 THE COURT: How do you know he's in London? Wouldn't
15 he be in custody if there's a warrant out there for him?

16 MS WOODS: We believe he's in London because of our
17 review of the text messages --

18 THE COURT: Has anybody been looking for him?

19 MS WOODS: I do not know the answer to that question,
20 your Honor.

21 THE COURT: I'm sorry. Continue.

22 MS WOODS: But Mr. Ahmed's connection to other
23 countries and individuals abroad who might be willing to help
24 him should he flee is contrasted with his lack of connection
25 here in the U.S. He does not have any children. And he lives

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1 with his mother and his father. And as your Honor will recall,
2 when the authorities went to Mr. Ahmed's home to arrest him,
3 his mother lied to the authorities for a substantial amount of
4 time and would not let them into the residence and denied that
5 he was present inside. And furthermore, with respect to
6 Mr. Ahmed's father, there is evidence that his father too was
7 involved in this bribery scheme and was actually present at a
8 meeting that took place between Special Agent Lustyik,
9 Mr. Thaler and Mr. Ahmed himself. Given that Mr. Ahmed's
10 family ties are limited here in the U.S., and given that his
11 employment record is spotty, although he does currently have a
12 job, the government is concerned that he may attempt to flee.

13 THE COURT: Okay. Anything further?

14 MS WOODS: I would note for the Court that the
15 defendant lied to the agents when he was initially approached
16 about his involvement in this case, that he lied to the Court
17 in his affidavit in support of his motion to suppress, and that
18 as you'll recall, when his iPhone was analyzed we uncovered
19 documents in which he had created false FBI credentials for
20 himself.

21 THE COURT: That's the one where he said he was the
22 member of the Bureau or something of Investigation.

23 MS WOODS: That's correct.

24 THE COURT: That's not a very good fake. It's not a
25 good thing to do but no one would actually think that was real.

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1 You did not think it was real.

2 MS WOODS: No. But it does go to his intent and his
3 willingness --

4 THE COURT: What about his capability? He's pleaded
5 guilty to a very serious crime. The fact that he's a criminal
6 is already a given, you've established that. He's pleaded
7 guilty. He's no longer presumed innocent. He is guilty. I
8 guess what I'm asking about is not so much his intentions,
9 which were bad, but I'm really more interested in his
10 capability to flee or to otherwise harm another person at this
11 stage of the game. Not two years ago or two and a half years
12 ago or even more than that, three years ago, when the offense
13 was ongoing but now, today. I'm really focused on today, not
14 what his intentions were in September 2011.

15 MS WOODS: In the government's view he's fully capable
16 of leaving and fleeing the jurisdiction, particularly
17 considering the substantial jail time that he's facing and due
18 to the fact that he's now pled guilty to the crimes with which
19 he's charged, and for that reason we ask the Court to detain
20 the defendant.

21 THE COURT: And I take it that you oppose this
22 application?

23 MR. HENRY: Yes.

24 THE COURT: Ms Woods is absolutely correct. 3143(a)
25 says that the judicial officer shall order a person who has

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1 been found guilty of an offense and is awaiting imposition or
2 execution of sentence, other than some things that aren't
3 relevant here, shall be detained, and here's the key language,
4 unless the judge find by clear and convincing evidence -- clear
5 and convincing evidence -- that the person is not likely to
6 flee or pose a danger to another individual or the community.
7 What would be the basis for me to find on this record by clear
8 and convincing evidence that he's not likely to flee or pose a
9 danger?

10 MR. HENRY: The report from Pretrial Services which
11 was provided to counsel for the government, myself, and I
12 presume the Court, wherein it states that Mr. Ahmed, after
13 having served approximately five months --

14 THE COURT: Move the microphone a little closer,
15 Mr. Henry, I'm sorry. I'm getting a little older.

16 MR. HENRY: The report which reflects that Mr. Ahmed
17 when he was originally arrested was held in custody at Valhalla
18 for approximately five months. At a hearing in front of this
19 Court we determined that there were conditions in which
20 Mr. Ahmed could be released. Those conditions were eventually
21 met approximately a year ago, about ten months ago
22 approximately, and that since that time, Mr. Ahmed has modified
23 the terms of his conditions so that he has greater discretion
24 to leave and come back to his home so that he can attend work,
25 sometimes late into the evening. He obtained employment. He

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1 continues to have his only true family ties here in the United
2 States based on that report. His passport has been turned in,
3 therefore he does not have the ability to travel by regular
4 means to any other country. He has been restricted from
5 traveling from the Southern District and Eastern District of
6 New York.

7 And what makes all of that important is he's complied
8 with every single one of those terms without fail which is
9 reported by his Probation, pretrial officer, Ms Owens, and
10 reiterated by Mr. Barrios from the office here. And the very
11 last line of their report says that the Pretrial Services
12 respectfully requests that bail be continued in this case.

13 Your Honor, I think that history is the best
14 indication that Mr. Ahmed isn't going anywhere. The idea that
15 he pled guilty to an offense makes him more of a flight risk.
16 I think that makes him less of a flight risk. He's here. He's
17 accepted responsibility for his actions. He's ready to face
18 the consequences. He knows what they are. And he's here with
19 his family today ready to take that on. He's not going to go
20 anywhere. So based on those factors we would ask that bail be
21 continued.

22 THE COURT: All right. I'm going to deny the
23 government's application. I am going to continue the defendant
24 on bail. But I do want to make a couple of comments. First,
25 of all the application is certainly not frivolous for two

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1 reasons. One, the statute requires that a person who has been
2 convicted by guilty plea shall be detained unless certain
3 things can be found and placed on the record, and secondly the
4 charges in this case are very serious. There's no question
5 that at a point in time, now a couple of years back, Mr. Ahmed
6 was engaged in conduct which did involve actual bribery and
7 planned to commit even more bribery of a significant and
8 important public official, a federal official, to obtain
9 information that he wanted to use in connection with, or he
10 wanted to relay to folks who could use it in connection with
11 political disputes in a foreign country. All of that is a
12 really serious matter.

13 I don't think the fact that he was born in Bangladesh
14 or has connections in Bangladesh is relevant at all. I really
15 don't. It's actually kind of disappointing that the government
16 would take that position although they often do in these kinds
17 of cases. Especially for those of us who are personally
18 relatively close to immigrants and therefore have family in
19 foreign countries, it's frankly a little bit offensive to those
20 of us in that situation. But it's not a frivolous request
21 because the statute requires it and because the charges are
22 serious and because what he wanted to do was, what he did do
23 was to commit a serious crime, crimes for which he's been
24 convicted and what he wanted to do was use this information in
25 an entirely inappropriate way.

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1 But on the other hand, that all occurred most recently
2 in March of 2012. And as I recall the facts in this case, and
3 of course there was no trial so I don't pretend to know the
4 facts as well as the parties do but as I recall the facts in
5 this case, the effort to enter into this ongoing relationship
6 with the FBI agent petered out because Ahmed said: Well, I'll
7 give you a lot more money but you've got to give me a lot more
8 information. And Thaler and Lustyik said, well, we'll give you
9 a lot more information but you've got to give us a lot more
10 money. And Ahmed said give me the information and I'll give
11 you the money and Lustyik and Thaler said give us the money,
12 we'll give you the information. And at some point they stopped
13 going back and forth on that and there was no more money and no
14 more information that was exchanged. And that was two and a
15 half years ago.

16 He did undoubtedly make false statements to agents
17 when he was first confronted, although he also ultimately made
18 a great number of admissions which would have been used against
19 him at trial very effectively by the government. The
20 government would have focused more on the admissions than the
21 false statements, I suppose, although they would have focused
22 on the false statements as false exculpatory, I guess.

23 But since he was released he has been fully compliant
24 with the conditions of release, he's been employed, absolutely
25 clear, and I agree with Mr. Henry that his true family ties

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1 here are in the United States, particularly in Connecticut. He
2 doesn't have a passport. He can't get another passport. He's
3 subject to electronic monitoring. And Mr. Henry didn't mention
4 this but he also signed a \$500,000 personal recognizance bond
5 and even more important than that, that bond is secured by two
6 things that I believe wield a great deal of moral suasion over
7 the defendant to remain here. One, I believe five close family
8 members co-signed that bond. Which means if Mr. Ahmed were to
9 flee those five people would be liable for \$500,000. Secondly,
10 the bond itself is secured by a hundred thousand dollars in
11 cash which means that hundred thousand dollars would just
12 disappear in a nanosecond if he were to disappear. His
13 disappearance and the 100,000 disappearance would be
14 coextensive you might say. And the people who put up that
15 money would lose that money. While it's impossible to predict
16 the future, if I did have a crystal ball that would make the
17 job a lot easier, so all I can do is make a judgment call based
18 on the evidence in front of me.

19 Let me digress a second. There are certain things
20 referred to by the government as to which I have no evidence in
21 front of me, such as efforts to stop or to help his friend
22 evade arrest or evade detection. I think those so-called text
23 messages are not even alleged in the indictment. Again, the
24 government's application is not frivolous but it's just
25 insufficient under the circumstances where the defendant does

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1 have extremely close family ties in this country, people to
2 whom he has these extremely close family ties have put up a
3 huge amount of money which would all be lost if he were to
4 flee. The bad behavior that he engaged in while bad and while
5 warranting a prosecution and conviction and while giving rise
6 to a potentially very serious jail sentence, those things all
7 did occur kind of a long time ago and they petered out when
8 there wasn't enough money coming in one direction and there
9 wasn't enough information going in the other direction and the
10 thing just sort of stopped, it just sort of petered out,
11 nothing else happened after that. The defendant wasn't
12 arrested as I recall until sometime in the middle of 2013 so it
13 was well more than a year after that. And as far as I know,
14 there's no evidence that he was engaged -- for example, let's
15 say it had petered out in March of 2012 but then a few months
16 later it started up again in some form or another. But I don't
17 recall there's any evidence, certainly none of that evidence is
18 in front of me. It doesn't make what he did less serious but
19 it's relevant on the issue of bail. Also, he can no longer get
20 assistance from Mr. Lustyik in any way, shape or form *vis a vis*
21 his friend or himself. He doesn't have a passport.

22 So I think under all these circumstances, I think
23 there is clear and convincing evidence that he is not a risk of
24 flight and that he's not a risk, he doesn't pose a risk of harm
25 to others or to the community. And because I make that finding

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1 I will continue him on bail.

2 And I should also say one last thing just so the
3 record is complete, I put a lot of stock in what the
4 professionals in the Pretrial Services office tell me. This is
5 what they do every day. This is their job to not only
6 supervise people that are out on bail, but to make thoughtful,
7 informed judgments about whether people should be allowed to be
8 on bail and under what circumstances. So it's not just -- in a
9 way the title is sort of not really a complete, it's not a
10 completely accurate description of what they do. Pretrial
11 Services, makes it sound like they just sort of supervise and
12 provide pretrial services. But it's more than that, it's much
13 more than that. It's providing thoughtful, informed judgment
14 calls about whether someone should be released or not and under
15 what circumstances and under what conditions. And for those
16 reasons I place a lot of stock in what the professionals have
17 to say and in particular I place a lot of evidence in what
18 Mr. Barrios has to say, which by the way it's not just him who
19 says that because in this case there happened to be another
20 colleague of his in Connecticut who has been actually
21 interacting with Mr. Ahmed on a regular basis and the two of
22 them, meaning colleague in Connecticut and Mr. Barrios, in
23 their considered judgment, thoughtful considered judgment,
24 believe that under the circumstances Mr. Ahmed should be
25 continued on bail. And I accept that judgment for all the

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1 reasons I've stayed.

2 Mr. Ahmed, I could easily revoke your bail right now.
3 And if ten minutes from now or a day from now or a week from
4 now or a month from now I hear anything that changes for the
5 worse, if you will, the information that I'm aware of today I
6 will revoke your bail. So you've asked to remain out pending
7 sentencing, I'm granting that request. But it's a close call.
8 I found by clear and convincing evidence that you're not a risk
9 of flight or a risk of harm to the community or to other
10 people. But if I learn something knew that I don't know now, I
11 could easily change my mind about that. So you need to know
12 that you have to continue to comply with all of the conditions
13 of your release, strictly comply with all the conditions of
14 your release. You need to know that if you fail to return to
15 my courtroom for sentencing on the date and time set you will
16 be guilty of a separate crime, bail-jumping, and for that you
17 could be imprisoned apart from and in addition to whatever
18 sentence you receive for the crimes to which you plead guilty.
19 Do you understand all that?

20 THE DEFENDANT: Yes.

21 THE COURT: You need to show up at your attorneys and
22 show up for your interview with the probation officer. You
23 have a lot of obligations you have to honor going forward. If
24 I hear that you're not honoring those obligations, I could
25 change my mind. I'm sure the government would be quick to make

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1 that application, as they should, that's their job. They
2 should make that application. So don't let me down, okay?

3 THE DEFENDANT: Yes.

4 THE COURT: All the conditions on which you were
5 released up until now continue to apply and if you violate
6 those conditions, the consequence will be remand. I'm
7 confident it won't happen so I am going to continue you on
8 bail. Anything else we need to do today?

9 MR. HENRY: No, thank you, your Honor.

10 MS WOODS: No, your Honor.

11 THE COURT: Thank you all very much. I'll see you all
12 January 23, 2015 at 2:30 p.m.

13 THE COURTROOM DEPUTY: All rise.

14 This Court will be in recess.

15 (Proceedings adjourned)
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